THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.8394 of 2007

Dated:23.04.2007

Between:

Pydah Padmaja.

... Petitioner

AND

The Regional Joint Commissioner and others.

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.8394 of 2007

ORDER:

The petitioner is the Secretary and Correspondent of the Mother's Integral School, Kakinada, in East Godavari District. Feeling aggrieved by the orders of the first respondent dated 23.12.2006 confirming the order of the second respondent, the petitioner filed the present Writ Petition seeking a writ of mandamus declaring the impugned order as illegal and arbitrary.

The petitioner was statedly inducted as a tenant/lessee in the building bearing Door No.27-4-24 belonging to the fourth respondent herein. The petitioner is running a School in the said leased property. On an application filed by the fourth respondent before the second respondent, being O.A.No.83 of 2005, after conducting enquiry orders were passed on 25.07.2006 under Section 83 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'), directing the petitioner to remove the encroachment made by her and handover possession of the same to the fourth respondent within thirty days, failing which, action was directed to be taken under Section 84 of the Act. Aggrieved by the same, the petitioner preferred a revision under Section 92 of the Act, which was dismissed by the first respondent.

Learned Counsel for the petitioner submits that the petitioner is paying rents regularly, and therefore, the petitioner cannot be treated

as an encroacher. He would urge that the petitioner was validly inducted as a tenant, and therefore, Section 83 of the Act has no application. **Per contra**, the learned Assistant Government Pleader for Endowments points out that when there was no proper lease in favour of a person, such person can be treated as an encroacher as per explanation to Section 83(1) of the Act. She also submits that the petitioner has an effective alternative remedy by way of a revision before the Government under Section 93 of the Act.

A perusal of the impugned order passed by the second respondent and the order of the first respondent would show that initially the petitioner herein did not cooperate with the second respondent in the enquiry under Section 83 of the Act. On 14.02.2006, the second respondent posted the matter for orders treating the case as closed. On 21.02.2006, the petitioner filed an application to allow her to cross examine the witnesses of the fourth respondent. The application was rejected. Thereafter, the order was passed on 25.07.2006 treating the petitioner as an encroacher. Before the revisional authority, it was proved that there was no lease or permission from the competent authority in favour of the petitioner, and that she was chronic defaulter in payment of damages for use and occupation. The first respondent also referred to the decree in O.S.No.390 of 2001 on the file of the Court of the
I Additional Senior Civil Judge, Kakinada, filed by the fourth respondent for recovery of rents. Thus, there was no lease confirmed by the competent authority, and therefore, it cannot be said that there was valid lease in favour of the petitioner as observed by the first respondent. In that view of the matter, no interference is called for.

Learned Counsel for the petitioner, however, submits that the petitioner is running a School, and if she is evicted, there shall be hardship. Insofar as this is concerned, the petitioner is given liberty to seek redressal before the Government by filing an application under Section 93 of the Act within a period of one week from the date of receipt of a copy of this order.

The Writ Petition, with the above observations, is accordingly dismissed. No costs.

(**V.V.S.RAO, J**)

23.04.2007

Note: Issue C.C by tomorrow.

B/o.

vs